

CHAPTER X

COMMERCIAL AND INDUSTRIAL LARGE SCALE DEVELOPMENT

SECTION 1 - LARGE SCALE DEVELOPMENT PERMITS

Development Permits are required for:

- A. All new commercial and/or industrial developments.
- B. All additions, substantial improvements, or major renovations to commercial and/or industrial developments.

Examples of Commercial and Industrial uses can be found in Appendix A.

SECTION 2 - LARGE SCALE PLAN REQUIREMENTS

Rural Large Scale Development Plans shall conform to current surveying and engineering practices and shall contain the following information as a minimum:

- A. Topographic and Boundary Survey Information
 - 1. Title block information: Project name, development's name(s), address(es), and site location description including: quarter-quarter section, section, township, range, principal meridian, and county of its location.
 - 2. Vicinity map location: The development within the section, identifying adjoining and/or nearby plats or certificates of survey, owner's of adjacent properties, land usage, and all prominent landmarks.
 - 3. A scale, not smaller than one (1") inch to one hundred feet (100') and a North Arrow.
 - 4. Boundary survey information including:
 - a. A written legal description of the project lot or property survey based on the existing Deed of Record which shall read clockwise and agree with the measurements and bearing indicated on the survey map.
 - b. All existing monuments found during the course of the survey should be indicated, including a physical description, such as "brass cap."
 - c. A certificate showing the name and registration number of the surveyor responsible for making the survey. The certificate shall be sealed, signed, and dated.
 - 5. Topographic information including:
 - a. Existing ground contour lines, based on USGS 7.5 minute Topographic Quadrangle datum, at (5) five-foot intervals and all disturbed areas of (2) two-foot intervals indicated by dashed line over the entire property.
 - b. The 100 year flood elevation based on USGS 7.5 Topographic Maps and FEMA Floodplain Map datum. If no portion of the site is within the 100 year floodplain, a letter or certificate from a registered, professional engineer or a licensed, practicing surveyor shall be provided stating such.
 - 6. Existing development information:

- a. Name and location of all existing roads and streets, driveways, parking areas, etc., include the type and width of driving surface.
 - b. Location of all existing buildings and utilities.
 - c. Location of all existing easements or rights-of-way, including those contiguous to the proposed development area, their nature, width, and the book and page number where recorded.
7. Proposed development information:
- a. All lots, blocks, rights-of-way, and easements to be created by the proposed development with their boundary, bearings, lengths, and widths.
 - b. If buildings, structures, or facilities are to be located near property lines, setbacks shall be indicated on the development plan.

B. Site Development Requirements

1. On Site Parking and Loading Requirements.

a. **Minimum Parking Space Requirements.** All developments shall provide and maintain off-street parking of the minimum number of parking spaces and the loading areas as required in Appendix B, Table 1, except for the changes of occupancy, and reconstructed or redeveloped uses on sites where parking or loading areas have not been provided in the past.

b. **Joint Parking Facilities.** Developments may utilize joint parking or loading areas if those joint areas are of adequate size for the combined uses according to the standards in Appendix B, Table 2. Joint parking areas shall be within six hundred (600) feet of all users served. Developments with differing peak activity periods may utilize joint parking areas with a consequent reduction in parking space requirements.

Example: A church with one hundred (100) sanctuary seats would be required to provide twenty-five parking areas. A day care center with six (6) employees and serving thirty (30) children would be required to provide six (6) spaces. If the day care center, operating five (5) days a week, were housed within the church, operating mostly on Sundays, twenty-five (25) parking spaces could serve both uses.

c. **Parking Area Design.** Minimum dimensions for parking spaces in different configurations are found in Table 2. Parking spaces in commercial, industrial, institutional, and public lots should be clearly marked with painted lines or dividers. Parking areas accommodating over ten (10) vehicles should have continuous (as opposed to dead-end) circulation patterns. Parking area surfaces shall be a hard surface and mud free with adequate drainage; a minimum slope of one percent (1%) and a maximum slope of five percent (5%). Parking areas should have safe access to public streets and be adequately lighted for night use. Recreational vehicle or storage parking areas should have security fencing and lighting.

d. **Parking Area Buffers.** Commercial, industrial, institutional, public, recreational vehicle, and storage parking areas should be buffered from adjoining residential uses by landscaping, walls, berms, or similar treatments (see Buffer Requirements).

e. Disabled/handicapped Parking. Commercial, industrial, and public parking areas shall provide clearly marked and appropriately situated parking for the disabled/handicapped according to the current Americans with Disability Act (ADA) requirements.

f. Large Scale Developments not to Decrease Existing Parking or Unloading Space. Ample space must be provided for trucks to load and maneuver off the public right-of-way. Loading areas shall be clearly marked to exclude parking, have safe access to public streets or alleys, and have designed clearances, curb radius, lane widths, maneuvering room, and lighting to accommodate their anticipated use.

2. Access Roads

A. Road Construction and Design. The design and construction shall be in accord with the standards as presented in the Benton County Road Plan – Ordinance 96-4 as amended (Appendix D).

B. County Acceptance. Roads that are to be maintained by the county must be approved and accepted by the County Road Superintendent (County Judge's Office).

C. Road Easements. Rights-of-way shall be deeded to the County.

3. Environmental Requirements

A. Storm Management Plan.

1. Storm Drainage. The developer shall construct storm sewers, drainage ditches, catch basins, and culverts of adequate capacity to convey not only surface run-off originating within the development or flowing across, but also consideration should be given to the consequence of total development should it occur in the upstream drainage area.

(a) All surface water drainage shall be transported to existing storm sewers, drainage facilities, or natural ditches as approved by the County Road Superintendent.

(2) SCS or Rational Method for calculating storm run-off are to be used.

2. Off-Site Drainage. The developer shall provide an engineering study by a professional registered engineer of the off-site drainage and/or potential flooding problems that may be created by full development of the proposed project. The study area shall cover not less than 1000 feet outside the proposed development.

If the study identifies potential off-site flooding problems, the engineer shall submit with the drainage plan, off-site drainage plans to correct the problem (s) identified. The developer shall be responsible at his own expense for making those off-site improvements necessary to correct the drainage or flooding problems created by his development.

3. On-Site Storm Detention Facility. Where off-site study indicates an increase in the peak flow discharge downstream, the developer shall construct a detention system or other acceptable means whereby controlling peak run-off rate. An on-site storm drainage detention facility for 10 year storm frequency is acceptable on all commercial and industrial development.

- (a) A storm water detention plan for both on and off-site drainage shall be submitted as part of the overall drainage plan. Off-site storm water facilities constructed shall be maintained by the owner of record.
4. All development (s) consisting of five (5) acres or more, must additionally comply with storm water requirements as prescribed by the Arkansas Department of Pollution Control and Ecology.

B. Water Quality Standards. Regardless of development size, a state approved septic disposal method is required of all commercial and industrial developments. All disposal system criteria must meet or exceed septic requirements as established by the Arkansas Department of Health in accordance with Act 402 of 1977 as amended.

1. Waste Discharge Control. No industrial or commercial development operation shall discharge any wastewater or fluids of any kind into either surface or ground-water sources. Exception may be considered in cases where EPA or Arkansas Department of Pollution Control and Ecology has issued a permit indicating that discharge is safe and/or that it has received adequate treatment prior to discharge. Evidence of such approval shall be provided.

- (a) Waste Water Control. Developers shall produce a permit from the appropriate agency ensuring connection to an adequate public wastewater disposal system if reasonably available.

- (b) On-Site Sewage Disposal. Where connection to an adequate (approved) public wastewater (sanitary sewer systems) disposal system is not reasonably available, plans approved by the State Department of Health for use of an on-site wastewater treatment is required.

2. Sedimentation and Erosion Control. Developers must minimize the area disturbed by construction activities at all times during construction activities and promptly revegetate (or mechanically stabilize) areas disturbed by construction activities. Developers shall use commonly accepted standards to limit erosion and siltation.

C. Flood Plain. A floodplain Development Permit is required of all proposed commercial and industrial developments identified to be in or questionable as to its coincidence with relation to FEMA designated Special Flood Hazard Areas to ensure conformance with the provisions set forth in County Ordinance 0-91-29, adopted September 12, 1991 (See Appendix C).

D. Solid Waste Disposal. Commercial and industrial developments will provide proper solid waste disposal methods in compliance with existing federal, state, county, and/or Solid Waste Management District's laws, regulations, and ordinances. A solid waste disposal plan shall be submitted with the development plan.

E. Environmental Compliance. The Planning Board reserves the right to require written confirmation from the appropriate agency (ies) confirming the developer's compliance with any and all environmental regulations including but not limited to: air pollution codes (quality), hazardous chemical (s) management and disposal, above and below-ground storage tanks, compliance with historical, cultural, and archeological preservation

issues, threatened/endangered species of state-wide and/or national importance, and any other concerns applicable to the issuances of a development permit.

4. Land Use Compatibility.

A. Development Patterns. Must be consistent and compatible with existing development and the environment.

Clustering. Commercial and industrial developments are encouraged to cluster to minimize incompatible land-use.

b. Right to Farm. Any industrial and commercial development (s) that could limit the viability of existing agricultural uses are discouraged.

c. Right to Operate. Residential development that could limit the viability of existing commercial and industrial operations are discouraged.

B. Potential Off-site Nuisances. Potential off-site nuisances shall be mitigated by appropriate means. The means of mitigation shall be presented in detail and submitted with the application for a permit.

C. Buffer Requirements-Landscaping and Vegetation Cover

1. Buffer Requirements. The Planning Board reserves the right to require a buffer to separate or screen one land use from another. To be effective, a buffer should eliminate objectionable sights, sounds, or nuisances from one land use reaching from another.

2. Buffer Design. Figures 1 and 2 provide the ideal planting plan for a landscape buffer. The types of recommended buffer are listed in Table 3 with the recommended planting for each type.

Table 4 is a list of the soils found in Benton County. With each soil type is listed the trees and shrubs that grow best in that soil type. To plant an effective landscape buffer, the type of buffer and plantings recommended for each type must be matched with the soils at the planting site to ensure plant survival.

3. Warranty. All buffers shall be maintained by the owner of record. All dead planting materials shall be replaced.

5. Public Utilities, Easements, and Setbacks

A. Public Utilities. Include as a separate attachment, from each utility to serve the development, a statement indicating adequate capacity and agreement to serve the proposed development.

B. Easements. Easements of adequate width according to engineering practices shall be provided for public use and utilities. Such easements shall have a

minimum combined width of at least fifteen (15) feet along front, side, and rear lot lines.

- C. Setbacks.** All man-made structures shall be in compliance with minimum setback standards as defined in County Ordinance 86-27, Appendix F.

6. Emergency Services

- A. Emergency Services Compatibility.** Commercial and industrial development must be compatible with available Emergency Services in the proposed area of development.

1. **Acceptance to Service.** Written confirmation from the appropriate Fire Chief is required indicating acceptance to service the development.
2. **Fire Hydrants.** If fire hydrants are required by the appropriate Fire Official, written confirmation is required indicating proper placement, flow, and pressure throughout the development. Fire hydrants shall be installed in such a manner as to provide service throughout the entire development.
3. **Emergency Access Provision.** Access roads, bridges, gates, etc., to all commercial and industrial developments must be adequate to allow appropriate emergency vehicle. Road improvements may be requested at the expense of the developer and subject to standards as set forth in County Ordinance 86-4 as amended.

- B. Fire and Safety Codes.** All commercial and industrial development must meet or exceed the current Arkansas Fire Prevention and Safety Codes.

- C. Hazard Chemical Compliance.** All proposed commercial and industrial developments must submit written confirmation of hazardous materials to be used and stored on-site. Documentation is to be forwarded to the County Office of Emergency Services.

- D. Approved Street Names.** All proposed street names shall be verified and approved by the Benton County 911 office prior to final plat or plan approval by the County Planning office.

- 7. Engineer's Certificate (Building Safety).** Include, as a separate attachment, a certificate by a registered professional engineer or licensed architect indicating that all structures "as built" conform to all applicable engineering requirements and specification.

SECTION 3 – ADMINISTRATION

The Benton County Planning Board shall have the responsibility to protect the public interest by thoroughly examining each plan for rural development (Appendix E).

SECTION 4 – PERMIT PROCEDURES

- A. Method of Filing.** Eight copies of the proposed plan shall be submitted to the Benton County Planning Office ten (10) days prior to the board meeting. The developer shall show proof (Post Office Return Receipt) that he/she has sent a certified letter to all adjoining property owners of the exterior boundary of the proposed development at least fourteen (14) days prior to the scheduled meeting of the Planning Board, at which the development is to be reviewed, and the date, time, and place of the proposed development review. When the tract is to be subdivided the developer shall further abide by the preliminary platting and final platting requirements as set forth in this ordinance.
- B. Fees.** Fees shall be submitted according to the fee schedule set up in Chapter XI, Section 1.
- C. Site Plan Review.** Rural developments shall be reviewed by the Planning Board at regular meetings. The action of the Board shall take place within sixty (60) days from and after the date the application is received by the Service Officer for the plan approval, unless the developer agrees in writing to an extension of time. The Planning Board will vote to approve, to approve with conditions, or to reject the plan.
 - 1) Public Comment.** Public comments concerning a specified proposed development can be made at regularly scheduled Planning Board meeting (s).
 - a) Special Public Hearing.** A written request may be submitted to the Planning Board or County Service Officer for the purpose of a special hearing relevant to issuances of a particular development permit.
 - b) Special Public Hearing Fees.** For each request for a request for a special public hearing before the Planning Board, the County Service Officer shall collect a fee from the appellant adequate to cover expenses (including advertising expenses).
 - c) Special Public Hearing Notice.** Notice of a Special Public Hearing shall be posted on the property described in the application for a permit.
- D. Plan Acceptance or Rejection.** The developer shall receive written notice of the approval or denial of the application for a permit. One copy of the approved or rejected plan, with conditions noted thereon, shall be returned to the developer/owner address on the application, signed and dated by the Planning Board. In the event of rejection, the Planning Board shall note all deficiencies/conditions by item on the plan. The developer may submit a revised (amended) plat.
 - 1) Large Scale Development Permit Issuances.** The Planning Board will issue large scale development permits only where there is full compliance with the provision of this ordinance.

- 2) **Reasons for Rejection.** The Planning Board may deny the application because of noncompliance with items addressed in this code, incompatible development, protecting the public safety and health, or any violation of an existing state and/or county law, regulation, or ordinance.
- E. Appeal.** Any decision of the Planning Board may be appealed by the developer or any land owner adjacent to the proposed development to the County Judge provided the appellant adheres to the Appeal Procedures.
- 1) **Appeal Procedures.** A written appeal must be filed with the County Service Officer within thirty (30) days of the decision being appealed. The appeal must state specifically what decision is being contested, what section (s) of these codes that decision was made in pursuance of, and what relief is requested.
 - a) Upon filing of an appeal, the County Service Officer shall, within five (5) working days, schedule a hearing. The hearing shall be held within thirty (30) days, but shall be preceded by at least fifteen (15) days notice by certified mail to the appellant, and at the appellant's expense, to all landowners within one thousand (1000) feet of the proposed development site.
 - b) The County Judge shall appoint a three (3) person Appeal Review Board knowledgeable in the area of appeal concerns, as needed to hear all persons desiring to be heard on the question of whether the findings and decisions of the Planning Board were in error. Following such hearing, the Appeal Review Board may affirm, modify, or reverse any findings or decisions of the Planning Board or may refer the proposed development back to the Planning Board for additional study and consideration.
 - c) The Appeal Review Board's decision shall be final, administratively.

SECTION 5 – MODIFICATION, VARIANCE, OR WAIVER

The Planning Board may modify, vary, or waive the requirements of this regulation as set forth in Chapter 1 Section 5 of this ordinance.

SECTION 6 – ENFORCEMENT, VIOLATIONS, AND PENALTIES

The Planning Board Service Officer shall act for the County Planning Board.

- A. Enforcement.** It shall be the duty of the designated County Official to enforce these regulations and bring to the attention of the Prosecuting Attorney any violations or lack of compliance herewith.
1. Filing an application constitutes permission for the County Service Officer, members of the Planning Board, County Road Superintendent, Environmental Affairs Officer, and/or any other authorized agent acting for the County, to enter the development, if necessary, for survey and examination in order to enforce the compliance of these regulations.
 - (a) In a situation where noncompliance with the provisions of these codes is suspected and an inspection is necessary, the Public Service Officer may

charge an inspection fee to the developer. Standardized fees shall be established by the County Planning Board.

- B. Penalties.** A violation of these regulations or failure to comply with the provisions herein specified shall be as set forth herein.

SECTION 7 – EXEMPTION

Nothing contained in the regulations shall prohibit the use of any land for agricultural purposes or the erection, maintenance, repair, alteration, or extension of any farm buildings or structures incident to the use for agricultural purposes on the land of which such buildings or structures are located. Except those commercial farm-related developments listed in Appendix A.

SECTION 8 – DEFINITIONS – COMMERCIAL AND INDUSTRIAL LARGE SCALE DEVELOPMENT

ADDITIONS, SUBSTANTIAL IMPROVEMENTS, OR MAJOR RENOVATIONS

COMMERCIAL DEVELOPMENT – See examples listed in Section 9, Appendix A – (A).

LARGE SCALE DEVELOPMENT – The general term used to refer to any proposed land-use change or construction of a building or structure that is required to have a permit pursuant to these codes.

FARM BUILDINGS AND STRUCTURES – Buildings and structures located on a working farm parcel, as evident by farming income and use.

FLOODPLAIN – The 100 year floodplain defined by the Federal Flood Insurance Administration and all other areas known to be subject to seasonal or flash flooding.

HARD SURFACE – Surfaces made from compactable materials such as SB-2, gravel, etc.

HAZARDOUS MATERIALS – Material that poses an unreasonable risk to health and safety of personnel (either employees or emergency responders), the public, and/or the environment if not properly controlled during handling, storage, manufacture, processing, packaging, use, disposal, or transportation. Defined by County Ordinance 90-31.

INDUSTRIAL DEVELOPMENT - See examples listed in Section 9, Appendix A – (B).

OFF-SITE NUISANCES – Include dust, smoke, odors, noise, vibration, light, glare, heat, etc. that affects property other than that on which it originates.

SETBACKS – An area beyond which the construction of all manmade structures is prohibited.

UTILITIES – Includes water, sewage, electrical, and natural gas.